

2415F USA

Via Telefax No. 703/872-9306

**IN THE UNITED STATES PATENT OFFICE**

In re Application of: Elias Humberto HERMIDA OCHOA

Serial No. 10/082,743

Confirmation No. 4696

Filed: February 22, 2002

Examiner: Ganapathy Krishnan

Group Art Unit: 1623

For: Regeneration of Articular Cartilage Damaged by Grade I and II Osteoarthritis by Means of the Intraarticular Application of a Mixture of Sodium Hyaluronate and Chondroitin Sulfate in a Gel Vehicle.

RESPONSE

MAIL STOP: Patent Application
Commissioner for Patents
P.O. Box 1450
Washington, D.C. 22313-1450

Dear Sir:

This letter is in response to the Office Action mailed June 15, 2004.

REMARKS

Claims 1-5 are pending in the present application. By his Office Action dated June 15, 2004, the Examiner provisionally rejected all claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims of co-pending Application Serial No. 10/469,258 (the "co-pending application").

Applicant notes with appreciation the Examiner's telephonic communication of July 14, 2004, relative to the outstanding Office Action. As discussed with the Examiner, the provisional double patenting rejection is the only basis for rejection



articulated in the present Office Action. Moreover, as between the present application and the commonly owned co-pending application, the present application was earlier filed (2/22/2002 versus 8/27/2003). For these reasons, applicant respectfully submits that the claims of the present application which are, with the exception of the provisional double patenting rejection, in condition for allowance, should be allowed without the need for a terminal disclaimer.

To address the obvious-type double patenting issue raised by the Examiner, applicant intends to submit, at the appropriate time, a terminal disclaimer in the co-pending application.

In view of the foregoing, applicant respectfully requests that the Examiner favorably reconsider the present claims and issue a Notice of Allowance thereon.

Respectfully submitted,

Date

7/15/04

By



Barry L. Copeland
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July 15, 2004

TELEFAX NO. 703/746-4000

FOR THE ATTENTION OF:

Examiner Ganapathy Krishnan

**re: Application Serial No. 10/082,743
of Hermida (Docket No. 2415F USA)**

Attached is:

Response (2 pages).

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